

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 828 - HB 1036

February 15, 2013

SUMMARY OF BILL: Adds aggravated child neglect and aggravated child endangerment to those offenses enumerated in Tenn. Code Ann. § 40-35-501(i)(2)(K) for which 100 percent of the sentence imposed must be served less any sentence credits, but no more than 15 percent of the imposed sentence may be reduced by sentence credits.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$232,300/Incarceration*

Assumptions:

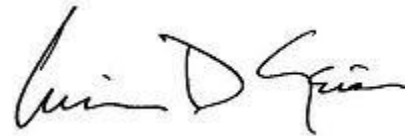
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- According to the DOC, there has been an average of two admissions each year for aggravated child neglect of a child less than six years of age, a Class A felony, for the past three years.
- A recidivism discount of 33.75 percent applies, but due to the low number of aggravated child neglect admissions added by this legislation, the recidivism discount does not impact the incarceration cost for aggravated child neglect under the proposed legislation.
- According to the DOC, the average sentence for aggravated child neglect of a child less than six years of age is 21.5 years. The average time served for a Class A felony is 15.78 years.
- The proposed legislation would require each offender to serve no less than 85 percent of his/her sentence, or 18.28 years ($21.5 \text{ years} \times 85.0\% = 18.275$) resulting in 2.5 additional years served ($18.28 \text{ years} - 15.78 \text{ years}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 2.5 years (913.13 days) for a total of \$58,596 ($\$64.17 \times 913.13 \text{ days}$). The cost for two offenders is \$117,192 ($\$58,596 \times 2$).
- According to the DOC, there has been an average of 0.7 admissions each year for aggravated child endangerment, a Class B felony, for the past three years.
- The DOC has no data on the average sentence or the average time served for aggravated child endangerment.

- The average time served for a Class B felony is 5.29 years. It is assumed the average sentence for aggravated child endangerment is 12 years, which is the maximum sentence for a Class B, Range I offender and the minimum sentence for a Class B, Range II offender.
- The proposed legislation would require each offender to serve no less than 85 percent of his/her sentence, or 10.2 years ($12 \text{ years} \times 85.0\% = 10.2$). The result is an increase in the average time served of 4.91 years ($10.2 \text{ years} - 5.29 \text{ years}$).
- A recidivism discount of 49.11 percent applies, but due to the low number of aggravated child endangerment admissions added by this legislation, the recidivism discount does not impact the incarceration cost for aggravated child endangerment under the proposed legislation.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 4.91 years (1,793.38 days) for a total of \$115,081 ($\$64.17 \times 1,793.38 \text{ days}$).
- The total additional incarceration cost is \$232,273 ($\$117,192 + \$115,081$).
- Any increase in caseloads for the District Public Defenders Conference can be accommodated within existing resources.
- It is assumed that there will be no impact on the District Attorneys General Conference (DAGC) because of the low number of admissions each year for aggravated child neglect or endangerment. The DAGC will be able to accommodate any increase within existing resources.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increase appropriation or reduced reversion.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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